

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NO. OSH 2003-21
	)	
DIRECTOR, DEPARTMENT OF LABOR	)	ORDER NO. 79
AND INDUSTRIAL RELATIONS,	)	
	)	PRETRIAL ORDER
Complainant,	)	
	)	
vs.	)	
	)	
HAWAIIAN DREDGING CONSTRUCTION	)	
CO.,	)	
	)	
Respondent.	)	

---

PRETRIAL ORDER

Pursuant to the representations of counsel for the parties at the initial conference held on November 25, 2003, IT IS HEREBY ORDERED THAT:

1. The issues to be determined are:
  - a. Whether Respondent violated 29 CFR § 1926.550(a)(19) as described in Citation 1, Item No. 1.

Whether a hazard existed. Whether any employee of Respondent was exposed. Whether the Respondent knew or should have known about the existence of a hazard and exposure of its employee. Whether compliance is feasible. Whether the characterization of the violation and the amount of the proposed penalty are correct. Whether the item is duplicative.

- b. Whether Respondent violated 29 CFR § 1926.703(a)(1) as described in Citation 1, Item No. 2a.

Whether a hazard existed. Whether any employee of Respondent was exposed. Whether the Respondent knew or should have known about the existence of a hazard and exposure of its employee. Whether compliance is feasible. Whether the characterization of the violation and the amount of the proposed penalty are correct. Whether the item is duplicative.

- c. Whether Respondent violated 29 CFR § 1926.703(a)(2) as described in Citation 1, Item No. 2b.

Whether a hazard existed. Whether any employee of Respondent was exposed. Whether the Respondent knew or should have known about the existence of a hazard and exposure of its employee. Whether compliance is feasible. Whether the characterization of the violation and the amount of the proposed penalty are correct. Whether the item is duplicative.

- d. Whether Respondent violated HAR § 12-110-2(b)(2)(B) as described in Citation 1, Item No. 3a.

Whether a hazard existed. Whether any employee of Respondent was exposed. Whether the Respondent knew or should have known about the existence of a hazard and exposure of its employee. Whether compliance is feasible. Whether the characterization of the violation and the amount of the proposed penalty are correct. Whether the item is duplicative.

- e. Whether Respondent violated HAR § 12-110-2(b)(3) as described in Citation 1, Item No. 3b.

Whether a hazard existed. Whether any employee of Respondent was exposed. Whether the Respondent knew or should have known about the existence of a hazard and exposure of its employee. Whether compliance is feasible. Whether the characterization of the violation and the amount of the proposed penalty are correct. Whether the item is duplicative.

- f. Whether Respondent violated HAR § 12-110-2(b)(4)(C) as described in Citation 1, Item No. 3c.

Whether a hazard existed. Whether any employee of Respondent was exposed. Whether the Respondent knew or should have known about the existence of a hazard and exposure of its employee. Whether compliance is feasible. Whether the characterization of the violation and the amount of the proposed penalty are correct. Whether the item is duplicative.

- g. Whether nonpreventable misconduct excuses any of Respondent's liability.

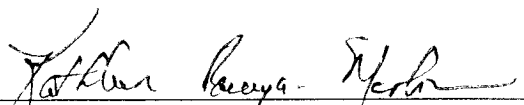
2. Trial is scheduled on May 3 -7, 2004 at 9:30 a.m. in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii.
3. Discovery deadlines are established as follows:
  - a. Live witness identification;  
identification of expert  
witnesses and exchange of  
expert's reports March 3, 2004
  - b. Discovery cut-off March 31, 2004
4. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DATED: Honolulu, Hawaii, November 25, 2003.

HAWAII LABOR RELATIONS BOARD

BRIAN K. NAKAMURA, Chair

  
CHESTER C. KUNITAKE, Member

  
KATHLEEN RACUYA-MARKRICH, Member

NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees at least five working days prior to the trial date.

Copies sent to:

Herbert B.K. Lau, Deputy Attorney General  
Jeffrey S. Harris, Esq.